

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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ARVIN COLLINS,

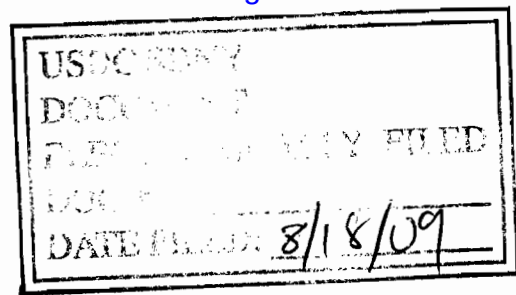
Petitioner,

-against-

ROBERT ERCOLE, Superintendent of  
Green Haven Correctional Facility, THE  
ATTORNEY GENERAL OF THE STATE  
OF NEW YORK

Respondents. :  
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ALVIN K. HELLERSTEIN, U.S.D.J.:



**ORDER DENYING APPOINTMENT  
OF COUNSEL**

08 Civ. 7636 (AKH)

Petitioner Arvin Collins, appearing pro se, has made two applications for appointment of counsel, dated August 6 and August 12, 2009. In light of the decisions of the Second Circuit in Cooper v. A. Sargenti Co., 877 F.2d 170 (2d Cir. 1989), and Hodge v. Police Officers, 802 F.2d 58 (2d Cir. 1986), I deny the application.

The threshold question in determining whether to assign counsel to an indigent petitioner is whether his or her claim is “likely to be of substance.” Cooper, 877 F.2d at 172. If a claim is found likely to be of substance, additional factors are to be considered with respect to whether counsel should be appointed. Those factors are “the indigent’s ability to investigate the crucial facts; whether conflicting evidence implicating the need for cross-examination will be the major proof presented to the fact finder; the indigent’s ability to present the case; the complexity of the legal issues; and any special reason in the case why appointment of counsel would be more likely to lead to a just determination.” Hodge, 802 F.2d at 61–62.

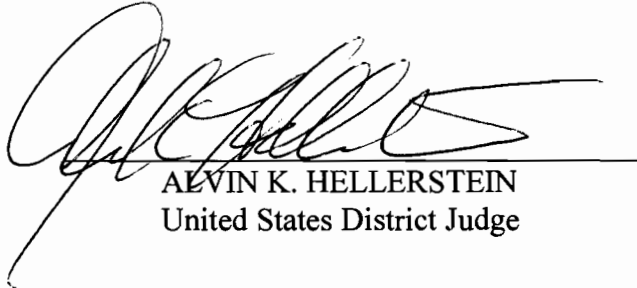
Volunteer time of lawyers is a scarce resource that should be carefully allocated.

Cooper, 877 F.2d at 172. “[C]ourts should not grant such applications indiscriminately.” Id. At this point in the proceedings, Petitioner has not shown that his complaint seems “likely to be of substance,” nor the existence of other factors that would satisfy the standard for appointment of counsel. Hodge, 802 F.2d at 61.

A more fully developed record is needed before I can determine if Petitioner’s chances of success and the existence of other appropriate factors warrant the appointment of counsel. Therefore, Petitioner’s application is denied without prejudice to its renewal when the record is more fully developed.

SO ORDERED.

Dated: August 18, 2009  
New York, New York



ALVIN K. HELLERSTEIN  
United States District Judge